527 The younger children of the families also took the precepts, but it was not considered wrong if they felt too hungry or faint to keep to them. Everyone packed up and went home from the resthouse at about four in the afternoon. I found these duty evenings very long and depressing. There was no dinner, my father and mother told beads all evening, and at night their mattresses were removed and they slept only on mats.

•428 342 We were now living in Grandfather's old house. Grandfather had left it to the four youngest among his children, and my mother had bought out the shares of the others because she was sentimentally attached to it and could not bear to see it pulled down. To others it had seemed an unwieldy shape taking so much good teak which could have built a compact modern house. My mother set about the task of transforming in into a comfortable domestic family house with a nicely disposed front and back, but it was a difficult task. There was no neat garden plot, no face, no bedrooms, but long stretches of gallery and verandah. We fenced off the well so that the village could continue to use it without infringing our privacy, the old big kitchen was dismantled and a compact kitchen made of one of the store-rooms near the washing platform, the old maternity room was stocked with commodes and made into a lavatory, the powder room was used as box-room. Six of us shared the big bedrooms. The altar, the water-pots and meals continued where they had always been. There was a large expanse of shining floor for visitors to sit on mats, and the head of the long verandah held a few chairs. The stable was cleaned up and given to Apana, now an old and rheumy-eyed man, and the downstairs hall, where a school had been, now held our stocks of rubber.

511 563 775 But still there was always so much space, the house seemed vast and empty, and the life so different from our district government houses with a crowd of servants, young men and dependents of all kinds. We felt the change acutely. My sisters were still children who played with each other and had plenty to eat during their short holidays, but I found the evenings silent and sad with the lifeless echoes which the dim light of the floorboards used to send up. I had been to stay at the house for short periods just before my Grandfather died, when I was about three or four years old. Here, where we washed our faces, we looked across to a house now mysteriously barred with a blank wooden face, but then inhabited by *ta-yok chi-thay-mas*, tiny-footed China-women, fabulous creatures according to my nurses, who, though they were slit-eyed and could curse you in an unknown tongue, could be sent reeling back with one touch of a finger. The ta-yok chi-thay-ma had other macabre qualities also. Her child had a big black patch of hair on its arm because it was the reincarnation of his dead sister. At the death of this

running with unholy energy and two small boys streaking after them shouting: "My hpongyi! Hey, my hpongyi!" 525

The showy vanity of Rangoon was seen at its greatest at wedding celebrations where no woman of any standing came without a full load of jewellery, either owned or borrowed for the occasion. For weddings of families like ours hundreds of invitations had always to be sent out owing to the tradition of acknowledging distant relationships and connections. It would be considered rude also not to invite the friends among clerks and traders from every town in which my father had been posted during our growing-up years. 585 511

Marriage is a social contract in Burma. To be married one needs no recourse to legal or priestly officers. The *let-htat*, laying of hands one on the other, can be performed in the presence of elders, or a feast can be given to a few people to obtain recognition of the married state. This is done after elopements, for example, when the parents have become reconciled and the young couple is too shy to go through the pantomine of a marriage ceremony. For divorce, also, no legal procedure is necessary, but convention makes divorces rare. Although monogamy is almost universal in Burma, polygamy is not forbidden by the law. A "mistress" of a married man is considered a sort of wife, but the disapproval with which this is regarded is shown in the term applied to her: *ma-ya-nga*, lesser wife. But the liberty operates both ways, and in the rare cases of a woman who runs to a second husband without any agreement having been reached beforehand, she is said to have a *lin-ngè*, lesser husband. The lack of legal safeguards of a woman's position as the only wife is amply compensated for by the rulings of Burmese Buddhist Law as regards her property. She retains sole ownership of whatever property she brings to the marriage, and on the dissolution of the marriage is entitled to half of all the additions of wealth since the marriage. Neither can an irate husband make a will leaving his money to other relatives and strangers. Wills are forbidden by law; children inherit equal shares of the parents' legacy, except in the cases where there are more than four children in the family. Then the eldest takes one-quarter before the rest is divided equally amongst the other children. On the death of one parent the surviving parent still has sole ownership of half the property. The other half is open to division among the children, but it is only a black sheep which will insist on division while one parent is still alive. 581 562 428

When I had been home but a month, my brother appealed to me for help in arranging the matter of his marriage. His difficulty was that he had no wish to marry the various dowried young women with whom my relatives were trying to contract him; he had chosen his own bride but at the same time the stern array of cousins, aunts and uncles in our 584

2:Scott G-5 (1870's-1909)1910 AP1 Burma
Burmese AP4

CHAPTER VII

MARRIAGE

538 581 In the Lawkanidi, the book of proverbs relating to ordinary life, it is said that monks and hermits are beautiful when they are lean; four-footed animals when they are fat; men when they are learned; and women when they are married. This recommendation to the married state is no more needed by Burmese maidens than it is by their sisters in other parts of the world, and they have the further inducement that they enjoy a much freer and happier position than in any other Eastern country, and in some respects are better off even than women in England. All the money and possessions which a girl brings with her on marriage are kept carefully separate for the benefit of her children or heirs, and she carries her property away with her if she is divorced, besides anything she may have added to it in the interim by her own trading or by inheritance. Thus a married Burmese woman is much more independent than any European even in the most advanced states. In the eyes of the Dammathat the old idea of the *patria potestas* prevails indeed, and woman is regarded as a simple chattel, belonging entirely to her parents, and to be disposed of by them without any reference to her personal inclinations; but, as a matter of fact, she may do pretty well as she pleases, may marry the youth on whom she has fixed her affections, and may separate herself from the husband who has offended her, by going before the village elders and stating her case; and if the complaint is just, her request is never refused.

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As yet they have not begun to demand an equal share

Z:Scott G-5 (1870's-1909)1910 AP1 Burma
Burmese AP4

423 671 remain to the cultivator and his heirs. But he shall have a tenth of the produce of all rice-lands, orchards, and gardens; and all excise and ferry duties, as well as canals and public works, shall belong to him. Through a succession of worlds the first king, the great Mahā Thamada, has established one-tenth to be his portion for ever, and let this be regarded as an everlasting precedent."

According to the Dhammathat there are seven methods by which landed property may be acquired. These are as follows:—1. By gift from the king. This is made only to soldiers and officials. 2. By inheritance. 3. By purchase. 4. By allotment from civil officers. 5. By personal reclaiming from the jungle. 6. By gift. 7. By unchallenged occupation for a period of ten years.

423 561 The first two titles are called perfect. The remainder are open to question, and may be disputed by any one who can show a prior claim. In actual fact, however, it may be said that the man who reclaims for himself a piece of land out of the jungle becomes by his industry proprietor of the clearing, without reference to local authorities, village elders, or any one at all, and has thereafter an inalienable right to his tenure, with no dues to pay whatever, except the sum the taikthugyi may see fit to assess him at. That worthy's valuation, however, always displayed an enthusiastic belief in the fertility of the soil. The landed proprietor could dispose of it by gift, or he might sell it; otherwise it descended to his heirs and assigns in the order of succession; the whole right and title was essentially vested in the owner and the heirs of his body. The tenure was, therefore, by what lawyers call fee-simple, udal, or allodial right. The estate left by the ● [428] original occupier was seldom broken up. The heirs tilled parts of it, or gathered the whole crop in successive years; so that the land did not require to be split up into infinitesimal parts. This practice was rendered all the easier by the thinness of the population. It was open to any one at any time to carve for himself out of the forest a holding of his own, and thus there was no temptation to break up the original family acres. It is singular that under a rule so completely 423 despotic as that of Burma, where every man was the king's slave, and could not cross the borders without his permission,

2:Scott G-5 (1870's-1909)1910 AP1 Burma
Burmese AP4

the right of land tenure should always have been so fixed and certain. The fondness with which the people cling to their ancestral lands has something of almost religious fervour in its tenacity. As long as a family remains in the neighbourhood of their inheritance nothing will persuade them to give up their connection with it. In Upper Burma, to the present day, land is never sold as the term would be understood in Europe. The transaction which goes by the name of a sale is, in reality, a kind of mortgaging, or, more exactly, pawning, if such a term can be used with regard to land.

The estate passes from one occupant to another for a certain sum of money, and it is clearly understood that if at any time the original owner is in a position to reclaim his property he may do so whether the purchaser likes it or not. Farther than this even, the buyer cannot sell the land to a third party without first obtaining the consent of its former owner. Notwithstanding this feeling, however, it is seldom that a property can be found which has remained for any considerable length of time in the same family. This is owing to the constant rebellions and wars between Peguans and Burmese and Shans, which afflicted the country for five hundred years. All those who were not killed were driven away from their former homes by ruthless invaders or were drafted off to fight for the king. In the short intervals of peace rival governors, in desperation for means to raise the revenues expected from their provinces, would tempt people away from their former homes by the offer of rewards or a reduction of body service. Thus in some cases the proprietors were killed out, in others they left for districts so remote that it was impossible to retain a hold on the ancestral property, however great their attachment to it. As an illustration of the sanctity attaching to ownership of land, the law concerning church lands may be quoted from Buddhaghosha's Parables: "Whoso shall take for himself or for another wutmye, consecrated or glebe-land, shall become a mite, or a white ant upon that sacred ground for the whole of 100,000 cycles."

The eighteenth of the original eighteen laws given by Manu to the king refers to the partition of property, and an elaboration of this points out sixteen descriptions of children who cannot claim a portion of their parents' property. The

2:Scott G-5 (1870's-1909)1910 AP1 Burma
Burmese AP4
Upper Burma
Lower Burma

423 distinctions are more minute than is at all necessary or indeed
423 comprehensible. They include all children born out of wed-
848 lock, among whom are reckoned such as are born before the
parents have been married ten months; all children that are
[577] purchased, or adopted by any other ceremony than that of
abadita or keiktima; and such as "from respect or affection
423 style their guardians father or mother." The settlement of
184 boundary marks was one of the earliest duties of the first
ruler. The thale rice became constantly scarcer and scarcer,
and it was determined that it would be well to give every
person his share and mark it off distinctly. The appointment
of persons to execute this duty was the first occasion on
which executive officials were found necessary. Manu
enumerated twenty-five objects suitable for legal landmarks.
These included all natural objects, such as lakes, rivers, ridges,
and hills, remarkable large trees and clumps of bamboos;
artificial boundaries of an equally permanent character, such
as pagodas, shrines for demon-worship, zayats, or rest-houses,
stone pillars and sacred posts, wells and cairns; finally such
singular distinguishing marks as heads of cattle, chaff, ashes,
charcoal, sand, broken earthenware vessels, and men's bones.
"Beating the bounds," one would think, must have been very
necessary with the younger members of the household in the
case of such perishable boundary lines as could be constituted
by chaff, or even sand. In Upper Burma the cultivating
[161] population was so sparse that no difficulty was found in the
matter of boundaries. In Lower Burma farms are as dis-
tinctly marked off as land-surveyors' chains can effect the
operation in pointing out the little raised ridges which
separate the plots of paddy land from one another. Never-
theless they are hardly such as the South of England farmers
would approve.

423 These allodial tenures are the only ones which exist in
[171-72] Burma now. In independent territory there were two other
651 kinds of holding, which were not, however, very numerous or
652 extensive. The first of these were called thugyisa fields, and
consisted of certain tracts of land near the town or village
set apart for the maintenance of the headman. As that
official was anything but a permanency, the tenant for the
time being very seldom cultivated them himself, but let them

16:Fielding Hall G-3 (1885-1890) 1898 AP1 Burma
Burmese AP4

points, hardly even in minor points, does the law discriminate against women.

The law as regards marriage and inheritance and divorce will come each in its own place. It is very much the same both for the man and the woman.

The criminal law was the same for both; I have tried to find any difference, and this is all I have found: A woman's life was less valuable than a man's. The price of the body, as it is called, of a woman was less than that of a man. If a woman were accidentally killed, less compensation had to be paid than for a man. I asked a Burman about this once.

'Why is this difference?' I said. 'Why does the law discriminate?'

'It isn't the law,' he said, 'it is a fact. A woman is worth less than a man *in that way*. A maid-servant can be hired for less than a manservant, a daughter can claim less than a son. They cannot do so much work; they are not so strong. If they had been worth more, the law would have been the other way; of course they are worth less.'

And so this sole discrimination is a fact, not dogma. It is a fact, no doubt, everywhere. No one would deny it. The pecuniary value of a woman is less than that of a man. As to the soul's value, that is not a question of law, which confines itself to material affairs. But I suppose all laws have been framed out of the necessities of mankind. It was the incessant fighting during the times when our laws grew slowly into shape, the necessity of not allowing the possession of land, and the armed

16:Fielding Hall G-3 (1885-1890) 1898 AP1 Burma
Burmese AP4

562 wealth that land gave, to fall into the weaker hands
671 of women, that led to our laws of inheritance.
428 Laws then were governed by the necessity of war, of subjecting everything else to the ability to fight. Consequently, as women were not such good fighters as men, they went to the wall. But feudalism never obtained at all in Burma. What fighting they did was far less severe than that of our ancestors, was not the dominant factor in the position, and consequently woman did not suffer.

She has thus been given the inestimable boon of freedom. Freedom from sacerdotal dogma, from secular law, she has always had.

And so, in order to preserve the life of the people, it has never been necessary to pass laws treating woman unfairly as regards inheritance; and as religion has left her free to find her own position, so has the law of the land.

562 And yet the Burman man has a confirmed opinion that he is better than a woman, that men are on the whole superior as a sex to women. 'We may be inferior in some ways,' he will tell you. 'A woman may steal a march on us here and there, but in the long-run the man will always win. Women have no patience.'

I have heard this said over and over again, even by women, that they have less patience than a man. We have often supposed differently. Some Burmans have even supposed that a woman must be reincarnated as a man to gain a step in holiness. I do not mean that they think men are always better than women, but that the best men are far better than the best women, and there are many more of them.

16:Fielding Hall G-3 (1885-1890) 1898 AP1 Burma
Burmese AP4

was the chain that bound them together. Had it not been for that they would have been divorced long ago; for they had never agreed very well, and both sides had bitter grounds for complaint. They would have been divorced, and both could have gone their own way. But now, what was to be done?

That is one of my memories: this is another.

There was a girl I knew, the daughter of a man who had made some money by trading, and when the father died the property was divided according to law between the girl and her brother. She was a little heiress in her way, owning a garden, where grew many fruit-trees, and a piece of rice land. She had also a share in a little shop which she managed, and she had many gold bracelets and fine diamond earrings. She was much wooed by the young men about there, and at last she married. He was a young man, good-looking, a sergeant of police, and for a time they were very happy. And then trouble came. The husband took to bad ways. The knowledge that he could get money for nothing was too much for him. He drank and he wasted her money, and he neglected his work, and at last he was dismissed from government employ. And his wife got angry with him, and complained of him to the neighbours; and made him worse, though she was at heart a good girl. Quickly he went from bad to worse, until in a very short time, six months, I think, he had spent half her little fortune. Then she began to limit supplies—the husband did no work at all—and in consequence he began to neglect her; they had many quarrels, and her tongue was sharp, and matters got worse and worse until they

16:Fielding Hall G-3 (1885-1890) 1898 AP1 Burma
Burmese AP4

586 were the talk of the village. All attempts of the
593 headman and elders to restrain him were useless.
[626] He became quarrelsome, and went on from one thing to another, until at last he was suspected of being concerned in a crime. So then when all means had failed to restore her husband to her, when they had drifted far apart and there was nothing before them but trouble, she went to the elders of the village and demanded a divorce. And the elders granted it to her. Her husband objected; he did not want to be divorced. He claimed this, and he claimed that, but it was all of no use. So the tie that had united them was dissolved, as the love had been dissolved long before, and they parted. The man went away to Lower Burma. They tell me he has become a cultivator and has reformed, and is doing well; and the girl is ready to marry again. Half her property is gone, but half remains, and she has still her little business. I think they will both do well. But if they had been chained together, what then?

586 You see that divorce is free. Anyone can obtain
428 it by appearing before the elders of the village and demanding it. A writing of divorcement is made out, and the parties are free. Each retains his or her own property, and that earned during marriage is divided; only that the party claiming the divorce has to leave the house to the other—that is the only penalty, and it is not always enforced, unless the house be joint property.

586 As religion has nothing to do with marriage,
789 neither has it with divorce. Marriage is a status, a partnership, nothing more. But it is all that.

It will be noted that most of 342
the living takes place on the downstairs floor where the bedrooms and [512]
the porch are located. The altar is also located downstairs [778]

U Myaing explained that the altar should be upstairs but it was more convenient downstairs. The posts on which the house rests rise a few feet above the ground. In all there are about 15,050 cubic feet enclosed by the house. Of this amount 1450 cubic feet are used for sleeping quarters for the family, 729 cubic feet is devoted to religion in the altar room, and 800 cubic feet is used in the kitchen for preparing food. The rest of the space is for social functions including visitors and relaxation, with some space used for storage.

In Pathae there were no beds and no chairs except for one deck chair 352
which had been handed down to U Myaing from his father. There were [428]
however, five small stools about four inches high and measuring about 12" by 6". These stools did not have four legs but instead were made of one flat board hammered onto two boards laid on their ends. They had one four legged stool measuring 2½ feet by 1½ feet and about 8 inches high. This was utilized as a chess board. (U Myaing and three or four [524]
others played chess four or five times a month in the afternoons. Their house was the only one in the village to possess a board and chessmen, U Myaing having received it from a cousin.) There was another stool about two feet high and one and a half feet square to hold the KYAUK KAR [415]
food carrier.

There were also two round Burmese tables. The smaller one was about three feet in diameter and one foot tall. Ma Aye Myaing could not estimate the diameter of the larger one but she remembered that eight men could eat at a time at this table, and that people who gave charities often came to [426]
borrow it for that reason.

There was a three legged stand for holding two water pots. The pots were placed on two horizontal triangles formed one about two feet above the other by the pieces of wood holding together the three upright feet of the stand. This stand was made by U Myaing at home.

They also possessed two cupboards both of which had been handed down to U Myaing by his father. The first one, used for holding clothes, was [428]
three TAUNG high, two and one half TAUNG wide and little less than one

23: Brant & Mi Mi Khaing E, I-5 (1949-1950)1951
AP1 Burma
Burmese AP4

593 husband's kinfolk. Post-marital residence is independent and is decided very
[591] largely on the basis of economic opportunity. The wife's opportunities for social intercourse with her family of orientation are, of course, greatest when residence is established in her home village; if, however, a couple from different villages marry and find it most opportune to settle in the husband's community, the
[574] chances are that the wife will maintain contact with her family of orientation by
[582] visits from time to time; such marriages seldom unite persons from villages that are very far apart. The very structural features of bilaterality and absence of extension militate against inequality and male domination.

562 Burmese culture is frequently remarked for the equality of the sexes, in con-
593 trast to the neighboring cultures of India and China. This status of the sexes seems to be the resultant historically of two patterns of thought. One is an apparently very old, pre-Buddhist emphasis upon equality, involving equal inheri-
● [428] tance, equal sharing of the property brought to the marriage, equal division of
[586] property upon divorce, a prominent female role in social and economic life, and an absence of transmission of surnames. The other thought pattern dates from the superimposition of Buddhism upon older Burmese conceptions: whatever
[177] ideas of male superiority exist in Burmese life stem from Buddhist notions of
[775] reincarnation. Although Buddha never expressed himself explicitly on the matter, it is taken for granted that only a male can attain Nirvana, since Gautama Buddha, who attained that state, was a male.

462 In the family household the wife's role includes not only such routine tasks as
592 the preparation of food and serving of meals, keeping the house orderly and clean, and looking after small children; very often it involves control of the family income and the making of all important decisions as to expenditures.

593 Certain observances and taboos, reflective of deference to males, are expected
784 of the female partner in marriage. She is careful that her lower garments do not touch her husband's bed or his personal belongings; she avoids touching her husband's head. It is believed that the breaking of such taboos may ruin the husband's success and glory, especially his spiritual attainments. These injunctions are followed as a matter of course by Burmese wives and will be broken deliberately only as an act of spite by a woman who wishes to harm or lower her husband for some reason.

593 Despite the various equalitarian aspects of husband-wife relations, there is
837 a tendency towards a double standard of sexual behavior. A husband who has reason to believe that his wife is engaging in extra-marital affairs is very likely
[586] to display violent anger, beat her, and break up the marriage. The wife of a

30: Maung Htin Aung E-4 (no date) 1953 AP1 Burma
Burmese AP4

671 her own choice. The head of the Burmese family can also give
593 away children under the age of puberty or majority to another
597 family for adoption, but when the child attains the age of puberty or majority, he or she has the option to choose in which family (i.e. his original family or his adoptive family) he
671 will remain. Acquisitions by members of the family accrue
593 to the family, but as in Roman and Hindu laws, certain classes
428 of acquisition by members of the family accrue to the acquirer and not to the family. Gifts from grandparents, from the king, and in certain cases, from strangers, and earnings through exercise of skill in the arts and in astrology, medicine, advocacy, and alchemy accrue to the acquirer. When a member of the family wishes to leave the family, there is no necessity to gain the assistance of a court of law. By mutual consent among the members, he is permitted to leave and he is given his share of the family estate. When the whole family decides to break up also, no formality is required, and by general consent, the family estate is divided between the members according to the rules of law pertaining to the partition of an estate into various shares.

671 One of the main features of Burmese society is the high
562 status of its women. Unlike the situation in Hindu or Chinese society, the Burmese woman has never been a mere chattel at the disposal of the Burmese man. Since prehistoric times Burmese women have enjoyed an equality of status, rank, and opportunity with men. Under the Burmese kings, the women held high office, and served often as headman, chief-
[773] tainess, and queen. In Burmese folktales dealing with strange disputes and wonderful decisions, which are known as Juristic Tales, the judge is a woman, namely Princess Learned-in-the-Law. At the present day, all the learned professions are open to women, and approximately 25 per cent of the students at the University of Rangoon are women.

671 The high status of women in Burmese society is reflected
583 in the Burmese customary law relating to marriage, divorce,
586 and inheritance. In Burmese law, marriage is purely a civil
428

30: Maung Htin Aung E-4 (no date) 1953 AP1 Burma
Burmese AP4

contract, founded on the consent of the man and woman to openly "eat and live together." Religion has nought to do with the marriage, and no special ceremony is necessary, and therefore in a court of law proof of marriage is not to be found in certificates of documents or evidence of a marriage ceremony, but in the testimony of witnesses that the man and woman lived together as man and wife. No Burmese man or woman can be forced into marriage without his or her consent. After a son has attained the age of puberty, or a daughter the age of majority, even the consent of the parents is no longer necessary. Divorce results without much formality when both the husband and the wife mutually agree to part. Burmese jurists in their writings often describe the husband as the lord of the wife, but that seems to be mere opinion, and they often advise the wife to obey her husband, but it does not mean that their advice is always followed. The wife has a right to divorce her husband without his consent, if he is guilty of cruelty or serious matrimonial misconduct. On divorce, the wife takes a substantial share of the joint estate, and if she should marry again, she remains absolute owner of her estate from her previous marriage, and does not share it with her second husband. But although divorce therefore is comparatively easy, and the wife enjoys an important position in the family, divorces have always been rare, and an atmosphere of cordiality and harmony prevails in the Burmese family.

671 583 586 428

Burmese women have always possessed full rights of inheritance. As the husband and wife are the heirs of each other, on the husband's death, the wife inherits a major share of the family estate, and full authority as head of the family if the family decides not to disintegrate and partition the estate. On the death of the surviving parent, the daughters have full rights of inheritance in competition with their brothers. As the Burmese customary law has never recognized a right to dispose of property by will, these rights of inheritance cannot be defeated in any way.

671 562 428

These, then, briefly are the main features of Burmese cus- ooo